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cause the trial court, on account of dispute as to the evidence and his own engagements, failed to settle and sign the bill of exceptions within the statutory period.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 2472, 2477; Dec. Dig. § 554 (2).\* 1 Va.-W. Va. Enc. Dig. 502.]

**3. Master and Servant (§ 6\*)—Contract of Employment—Officers—Sufficiency of Evidence.**—In an action against a corporation and its president for breach of an alleged contract of hire, the evidence held not to sustain a verdict that the president as an individual promised to hire plaintiff for himself.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 6; Dec. Dig. § 6.\* 9 Va.-W. Va. Enc. Dig. 665.]

**4. Corporations (§ 306\*)—Officers—Liability for Unauthorized Act—Form of Action.**—In an action of assumpsit against a corporation and its president for breach of an alleged contract of hire, the president cannot be held personally liable because he misrepresented his authority to make the contract for the company.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 1457, 1458; Dec. Dig. § 306.\* 3 Va.-W. Va. Enc. Dig. 567.]

Error to Hustings Court of Richmond.

Action by H. B. Stokes against the Universal Screen & Blind Company, Incorporated, and George W. Lancaster. Judgment for plaintiff against defendant Lancaster and in favor of defendant Universal Screen & Blind Company, and defendant Lancaster brings error. Reversed and remanded.

*Pollard, Wise & Chichester*, of Richmond, for plaintiff in error.

*Gunn & Mathews* and *R. E. Scott*, all of Richmond, for defendant in error.

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ARENDALL et al. v. ARENDALL et al.

June 8, 1916.

[89 S. E. 87.]

**1. Homestead (§ 150 (2)\*)—Setting Apart—Conclusiveness—Questions—Determine.**—Where, after death of an occupant of land, on motion of his widow, the county court ordered commissioners to assign a homestead exemption to the widow, and thereafter the county court set apart to her the land and property of her late husband, the proceeding was conclusive on the widow and those claiming through her relative to the title of the land being in the husband; the assignment of a homestead being in the exercise of the probate

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

jurisdiction of the court and its judgment not being amenable to collateral attack.

[Ed. Note.—For other cases, see Homestead, Cent. Dig. §§ 302-305; Dec. Dig. § 150 (2).\* 8 Va.-W. Va. Enc. Dig. 545.]

**2. Partition (§ 13\*)—Right of Coparcener.**—Where a wife held title to land in privity with and in subordination to her husband's title, upon his death the land, subject to her life estate of homestead therein assigned her by the county court, descended to his heirs as coparceners, who, her estate having terminated by her death, are entitled to partition of the land.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 36, 81; Dec. Dig. § 13.\* 10 Va.-W. Va. Enc. Dig. 779.]

Appeal from Circuit Court, Halifax County.

Bill for partition by Akers L. Arendall and others against Thomas L. Arendall and others. From a decree dismissing the bill, plaintiffs appeal. Reversed.

*Guthrie & De Jarnette*, of Houston, and *Harrison & Long*, of Lynchburg, for appellants.

*John Martin, Jr.*, for appellees.

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PENNSYLVANIA R. CO. *v.* JENKINS.

June 8, 1916.

[89 S. E. 96.]

**1. Carriers (§ 336\*)—Carriage of Passengers—Contributory Negligence.**—An employee of a locomotive works, an old railroad employee, accompanying dead engines in a freight train to destination, who got down off the freight train without looking for approaching passenger trains on the next track, to examine the dead locomotives, was guilty of contributory negligence, though the engineer of the freight train had promised to stop at a safe place for him to inspect.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. §§ 1357-1362; Dec. Dig. § 336.\* 2 Va.-W. Va. Enc. Dig. 708.]

**2. Negligence (§ 80\*)—Contributory Negligence.**—When the negligence of plaintiff proximately contributes to his injury, there can be no recovery.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. §§ 84, 85; Dec. Dig. § 80.\* 10 Va.-W. Va. Enc. Dig. 300.]

Error to Hustings Court of Richmond.

Action by C. W. Jenkins against the Pennsylvania Railroad

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.